

# *Documents on Diplomacy: The Source*

## *Excerpts from John Jay's Report to the President of Congress New York, August 3, 1786*

Sir;  
Every Person to whom is committed the Management of a Negotiation, from which many good or ill Consequences will probably result, must find himself placed in a very delicate and responsible Situation. In that Point of Light I consider our present Negotiations with Spain, and that my Sentiments on the Subject may be conveyed to Congress with Precision, and authentic Evidence of them preserved, I have reduced them to Writing as concisely and accurately as I could find Leisure to do since I received Notice to attend this Day.

It appears to me that a proper commercial Treaty with Spain, would be of more Importance to the United States, than any they have formed, or can form, with any other Nation. I am led to entertain this Opinion from the Influence which Spain may, and will have, both on our Politics and our inclined Commerce.

France whom we consider as our Ally, and to whom we shall naturally turn our Eyes for Aid in case of War etc, is strongly bound to Spain by the family Compact [*an agreement between France and Spain*], and the Advantages she derives from it are so various and so great, that it is questionable whether she could even remain neuter in Case of a Rupture between us and his Catholic Majesty. Besides, we are well apprized of the Sentiments of France relative to our western Claims, in which I include that of freely navigating the River Mississippi. I take it for granted that while the Compact in Question exists, France will invariably think it her Interest to prefer the good Will of Spain to the good Will of America, and although she would very reluctantly give Umbrage to either, yet if driven to take Part with one or the other, I think it would not be in our Favor. Unless we are Friends with Spain, her Influence whether more or less, on the Counsels of Versailles, will always be against us.

The Intermarriages between Spain and Portugal which have taken place in this and the late Reigns, have given the former a Degree of Influence at the Court of the latter, which she never before possessed; and leading Men in both those Kingdoms, seem disposed to bury former Jealousies and Apprehensions in mutual Confidence and good Offices. How far this System may be perfected, or how long continue, is uncertain; while it lasts, we must expect Good or Evil from it, according as we stand well or ill with Spain.

Britain would be rejoiced to find us at Variance with Spain on any Points — she remembers that we were once her Subjects, and loves us not—she perceives that we are her most important Rivals in the Spanish Trade, and that her Nursery of Seamen on the Banks of Newfoundland, will prosper or otherwise as ours of the like kind shall increase or diminish, and it will increase or diminish in Proportion as we may or may not undersell them at foreign Markets, among which that of Spain is the most advantageous. . . .

In various Ways therefore may Spain promote or oppose our political Interests with several other Countries—and we shall I think either find her in America a very convenient Neighbor, or a very troublesome one. . . .

It is well known that they consume more than they export, and consequently that the Balance of Trade is and must be against them—hence it is that the Millions they yearly bring from the Mines of America, so soon disappear, flying out of Spain by every Road and Port in it. . . .

The Conclusion I draw from what has been said is, that on general Principles of Policy and Commerce, it is the Interest of the United States to be on the best Terms with Spain. This Conclusion would be greatly strengthened by a Review of our present local and other Circumstances, but they are well known, and their Language is strong and intelligible. . . .

To this cause I ascribe the Civilities shown to the United States, by the Release of their Citizens at the Havana, and by Interposition of his Catholic Majesty in their Favor at Morocco etc.

To the same cause I ascribe the very liberal and beneficial Articles which their Plenipotentiary here is willing to have inserted in the Treaty I am now negotiating with him, and which are specified in the following notes of them, Viz:

1. That all commercial Regulations affecting each other shall be founded in perfect Reciprocity. Spanish Merchants shall enjoy all the commercial Privileges of native Merchants in the United States, and American Merchants shall enjoy all the commercial privileges of native Merchants in the Kingdom of Spain and in the Canaries and other Islands belonging and adjacent thereto. The same Privileges shall extend to their respective Vessels, and Merchandise consisting of the Manufactures and Productions of their respective countries.

2. Each Party may establish Consuls in the Countries of the other (excepting such Provinces in Spain, into which none have heretofore been admitted, Viz Bilboa and Guipsca) with such Powers and Privileges as shall be ascertained by a particular Convention.

3. That the *bona fide* Manufactures and Productions of the United States (Tobacco only excepted, which shall continue under its present Regulations) may be imported in American or Spanish Vessels, into any Parts of His Majesty's European Dominions and Islands aforesaid, in like Manner as if they were the Productions of Spain. And on the other Hand, that the *bona fide* Manufactures and Productions of His Majesty's Dominions may be imported into the United States, in Spanish or American vessels in like Manner as if they were the Manufactures and Productions of the said States. And further, that all such Duties and Imposts as may mutually be thought necessary to lay on them, by either Party, shall be ascertained and regulated on Principles of exact Reciprocity, by a Tariff to be formed by a Convention for that Purpose to be negotiated and made, with *one* Year after the Exchange of the Ratification of this Treaty; and in the mean Time, that no other Duties or Imposts shall be exacted from each others Merchants and Ships, than such as may be payable by Natives in the like cases.

4. That inasmuch as the United States, form not having Mines of Gold and Silver, may often want Supplies of Specie [*coin or hard currency*] for a circulating Medium, his Catholic Majesty as a Proof of his good Will, agrees to order the Masts & Timber which may from time to time be wanted for his royal Navy, to be purchases, and paid for in Specie, in the United States Provided the said Masts & Timber shall be of equal Quality, and when brought to Spain, shall not cost more than the like may there be had from other Countries.

5. It is agreed that the Articles commonly inserted in other Treaties of Commerce for mutual and reciprocal Convenience shall be inserted in this, and that this Treaty and every Article and Stipulation therein shall continue in full Force for \_\_\_\_ Years to be computed from the Day of the Date thereof. . . .

M<sup>r</sup>. Gardoqui is not personally averse to our visiting the Philip-pines, but his Instructions do not reach that Point.

I have Hopes that this may be carried, and in that Case it is obvious we should be the better for the Acapulco Trade.

I forebear to dwell minutely n these commercial Subjects, because nothing I could say respecting them would be new.

My Attention is chiefly fixed on two Obstacles, which at present divide us *Viz.* the Navigation of the Mississippi and the territorial Limits between them and us.

My letters, written from Spain, when our Affairs were the least promising, evince my Opinion respecting the Mississippi, and

oppose every Idea of our relinquishing our Right to navigate it. I entertain the same Sentiments of that Right, and of the Importance of retaining it, which I then did.

Mr. Gardoqui strongly insists on our relinquishing it. We have had many Conferences and much Reasoning on the Subject, not necessary now to detail. His concluding Answer to all my Arguments has steadily been, that the King will never yield that Point, nor consent to any Compromise about it—for that it always has been and continues to be one of their Maxims of Policy, to exclude all Mankind from their American Shores.

I have often reminded him that the adjacent Country was filling fast with People, and that the Time must and would come, when they would not submit to seeing a fine River flow before their Doors without using it as a Highway to the Sea for the Transportation of their Productions—that it would therefore be wise to look forward to that Event, and take Care not to sow in the Treaty any Seeds of future Discord. He said that the Time alluded to was far distant, and that Treaties were not to provide for Contingencies so remote and future. For his Part, he considered the rapid Settlement of that Country as injurious to the States, and that they would find it necessary to check it. Many fruitless Arguments passed between us, and though he would admit that the only way to make Treaties and Friendship permanent, was for neither Party to leave the other any Thing to complain of, yet he would still insist that the Mississippi must be shut against us. The Truth is, that Courts never admit the Force of any Reasoning or Arguments but such as apply in their Favor; and it is equally true, that even if our Right to that Navigation, or to any Thing else, was expressly declared in Holy Writ, we should be able to provide for the Enjoyment of it no otherwise than by being in Capacity to repel force by force.

Circumstanced as we are, I think it would be expedient to agree that the Treaty should be limited to twenty-five or thirty Years, and that one of the Articles should stipulate that the United States would forbear to use the Navigation of that River below their Territories to the Ocean. Thus the Duration of the Treaty and of the Forbearance in Question, would be limited to the same Period. . . .

Whether M<sup>r</sup>. Gardoqui would be content with such an Article I cannot determine, my Instructions restraining me from even sounding him respecting it. I nevertheless think the Experiment worth trying for several Reasons.

1. Because unless that Matter can in some way or other be settled, the Treaty however advantageous will not be concluded.

2. As that Navigation is not at present important, nor will probably become much so, in less than twenty-five or thirty Years, a Forbearance to use it while we do not *want* it, is no great Sacrifice.

3. Spain now excludes us from that Navigation, and with a strong Hand holds it against us she will not yield it peaceably, and

therefore we can only acquire it by War. Now as we are not prepared for a War with any Power, as many of the States would be little inclined to a War with Spain for that Object, at this Day; and as such a War would for those and a variety of obvious Reasons be inexpedient, it follows, that Spain will for a long Space of Time yet to come exclude us from that Navigation. Why therefore should we not (for a valuable Consideration too) consent to forbear to use, what we know is not in our Power to use.

4. If Spain and the United States should part on this Point, what are the latter to do? Will it after that be consistent with their Dignity to permit Spain forceably to exclude them from a Right, which at the Expense of a beneficial Treaty, they have asserted? They will find themselves obliged either to do this and be humiliated, or they must attack Spain. Are they ripe and prepared for this? I wish I could say they are.

It is possible that such an Article if agreed to might lessen one of the Arguments urged to enhance the Value of western Lands: but would not the Spaniards continuing by Force to exclude us from the Navigation, soon have the same Effect? In either Case that Argument must lose some of its Force, but in the one Case America would also lose some of its Dignity. It can be no Question therefore which of the two Cases would be least desirable.

If such a Compromise should be attempted and not succeed, we shall lose nothing by it for they who take a Lease admit the Right of the Lessor.

I have some Hope that it would succeed, for I suspect Spain would argue that as we are tempted to this Forbearance now by other Articles in the Treaty, the like Temptations will again induce us to prolong it. Besides, I much doubt whether the Minister extends his Views far beyond the Limits of his own Life or Administration. If he can render that easy and satisfactory, he may perhaps without much Reluctance, leave future Disputes to be settled by future Ministers. It is hard to say whether this will or will not be the Case. I am for trying the Experiment, because it can, in my Opinion, do us no Injury and may produce much Good.

With respect to territorial Limits, it is clear to me, that Spain can justly claim nothing East of the Mississippi but what may be comprehended within the Bounds of the Floridas. How far those Bounds extend, or ought to extend, may prove a Question of more Difficulty to negotiate than to decide. Pains I think should be taken to conciliate and settle all such Matters amicably, and it would be better even to yield a few Acres than to part in ill Humour. If their Demands when ascertained, should prove too extravagant, and too pertinaciously adhered to, one Mode of avoiding a Rupture will still be left *Viz* referring that Dispute to impartial Commissioners. I do not mean by this, that any third Sovereign should be called in to mediate or arbitrate about the Matter. They make trouble, some

Arbitrators, and not always the most impartial. I mean private Men for Commissioners, and to me there appears little Difficulty in finding proper ones. For not being prepared for War, I think it much our Interest to avoid placing ourselves in such a Situation, as that our forbearing Hostilities may expose us to Indignities.

It is much to be wished that all these matters had lain dormant for Years yet to come, but such Wishes are vain. These Disputes are agitating—they press themselves upon us, and must terminate in Accommodation, or War, or Disgrace. The last is the worst that can happen, the second we are unprepared for, and therefore our Attention and Endeavours should be bent to the first.

Permit me, Sir, to make one or two Observations more. If the System of Spain respecting us, really is, what I suppose it to be, then it follows that this is the best Season for making a Treaty with her that can be expected.

The late War has left her new commercial Engagements to make, particularly with Britain, whose Attention to Commerce leaves us no Room to suppose her indifferent to that with Spain. She is now able & willing to grant us Favors. Other Treaties and other Dispositions and Views may render her in future both unable and unwilling to do the like.

At a Time when other Nations are showing us no extraordinary Marks of Respect, the Court of Spain is even courting our Friendship by strong Marks not merely of polite and friendly Attention, but by offering us Favors not common for her to hold out or bestow—for I consider the Terms she proposes as far more advantageous than any to be found in her commercial Treaties with other Nations. . . .

These, Sir, are my Sentiments on these important Subjects: and whether they accord with, or vary from those which may here prevail, yet I shall always remember that I am to be governed by the Instructions, and that it is my Duty faithfully to execute the Orders of Congress.

JOHN JAY

### *Source*

*The Emerging Nation: A Documentary History of the Foreign Relations of the United States under the Articles of Confederation, 1780-1789*, Mary A. Giunta, Editor-in-Chief, Volume III. Washington, DC: Government Printing Office, 1996.